

SECOND REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1734**  
**101ST GENERAL ASSEMBLY**

4238H.03P

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 44.032, 393.1400, 393.1640, 393.1655, 393.1700, and 393.1715, RSMo, and to enact in lieu thereof eight new sections relating to utilities.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 44.032, 393.1400, 393.1640, 393.1655, 393.1700, and 393.1715, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 44.032, 393.1275, 393.1400, 393.1640, 393.1655, 393.1656, 393.1700, and 393.1715, to read as follows:

44.032. 1. (1) **As used in this section, the term "rural electric cooperative" means any rural electric cooperative organized or operating under the provisions of chapter 394, any corporation organized on a nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or any electrical corporation operating under a cooperative business plan as described in subsection 2 of section 393.110.**

(2) The general assembly recognizes the necessity for anticipating and making advance provisions to care for the unusual and extraordinary burdens imposed **by disasters or emergencies** on this state ~~[and]~~, its political subdivisions ~~[by disasters or emergencies]~~, **and rural electric cooperatives**. To meet such situations, it is the intention of the general assembly to confer emergency powers on the governor, acting through the director, and vesting the governor with adequate power and authority within the limitation of available funds in the Missouri disaster fund to meet any such emergency or disaster.

2. There is hereby established a fund to be known as the "Missouri Disaster Fund", to which the general assembly may appropriate funds and from which funds may be appropriated annually to the state emergency management agency. The funds appropriated

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 shall be expended during a state emergency at the direction of the governor and upon the  
17 issuance of an emergency declaration which shall set forth the emergency and shall state that  
18 it requires the expenditure of public funds to furnish immediate aid and relief. The director of  
19 the state emergency management agency shall administer the fund.

20 3. Expenditures may be made upon direction of the governor for emergency  
21 management, as defined in section 44.010, or to implement the state disaster plans.  
22 Expenditures may also be made to meet the matching requirements of state and federal  
23 agencies for any applicable assistance programs.

24 4. Assistance may be provided from the Missouri disaster fund to political  
25 subdivisions of this state ~~[which]~~ **and rural electric cooperatives** that have suffered from a  
26 disaster to such an extent as to impose a severe financial burden exceeding the ordinary  
27 reserve capacity of the subdivision **or rural electric cooperative** affected. Applications for  
28 aid under this section shall be made to the state emergency management agency on such  
29 forms as may be prescribed and furnished by the agency, which forms shall require the  
30 furnishing of sufficient information to determine eligibility for aid and the extent of the  
31 financial burden incurred. The agency may call upon other agencies of the state in evaluating  
32 such applications. The director of the state emergency management agency shall review each  
33 application for aid under the provisions of this section and recommend its approval or  
34 disapproval, in whole or in part, to the governor. If approved, the governor shall determine  
35 and certify to the director of the state emergency management agency the amount of aid to be  
36 furnished. The director of the state emergency management agency shall thereupon issue  
37 ~~[his]~~ **the director's** voucher to the commissioner of administration, who shall issue ~~[his]~~ **the**  
38 **commissioner's** warrants therefor to the applicant.

39 5. When a disaster or emergency has been proclaimed by the governor or there is a  
40 national emergency, the director of the state emergency management agency, upon order of  
41 the governor, shall have authority to expend funds for the following:

42 (1) The purposes of sections 44.010 to 44.130 and the responsibilities of the governor  
43 and the state emergency management agency as outlined in sections 44.010 to 44.130;

44 (2) Employing, for the duration of the response and recovery to emergency, additional  
45 personnel and contracting or otherwise procuring necessary appliances, supplies, equipment,  
46 and transport;

47 (3) Performing services for and furnishing materials and supplies to state government  
48 agencies, counties, ~~[and]~~ municipalities, **and rural electric cooperatives** with respect to  
49 performance of any duties enjoined by law upon such agencies, counties, ~~[and]~~  
50 municipalities, **and rural electric cooperatives** which they are unable to perform because  
51 of extreme natural or man-made phenomena, and receiving reimbursement in whole or in part  
52 from such agencies, counties, ~~[and]~~ municipalities, **and rural electric cooperatives** able to

53 pay therefor under such terms and conditions as may be agreed upon by the director of the  
54 state emergency management agency and any such agency, county, ~~[or]~~ municipality, **or**  
55 **rural electric cooperative;**

56 (4) Performing services for and furnishing materials to any individual in connection  
57 with alleviating hardship and distress growing out of extreme natural or man-made  
58 phenomena, and receiving reimbursement in whole or in part from such individual under such  
59 terms as may be agreed upon by the director of the state emergency management agency and  
60 such individual;

61 (5) Providing services to counties and municipalities with respect to quelling riots and  
62 civil disturbances;

63 (6) Repairing and restoring public infrastructure;

64 (7) Furnishing transportation for supplies to alleviate suffering and distress;

65 (8) Furnishing medical services and supplies to prevent the spread of disease and  
66 epidemics;

67 (9) Quelling riots and civil disturbances;

68 (10) Training individuals or governmental agencies for the purpose of perfecting the  
69 performance of emergency assistance duties as defined in the state disaster plans;

70 (11) Procurement, storage, and transport of special emergency supplies or equipment  
71 determined by the director to be necessary to provide rapid response by state government to  
72 assist counties and municipalities in impending or actual emergencies;

73 (12) Clearing or removing from publicly or privately owned land or water, debris and  
74 wreckage which may threaten public health or safety;

75 (13) Reimbursement to any urban search and rescue task force for any reasonable and  
76 necessary expenditures incurred in the course of responding to any declared emergency under  
77 this section; and

78 (14) Such other measures as are customarily necessary to furnish adequate relief in  
79 cases of catastrophe or disaster.

80 6. The governor may receive such voluntary contributions as may be made from any  
81 source to aid in carrying out the purposes of this section and shall credit the same to the  
82 Missouri disaster fund.

83 7. All obligations and expenses incurred by the governor in the exercise of the powers  
84 and duties vested by the provisions of this section shall be paid by the state treasurer out of  
85 available funds in the Missouri disaster fund, and the commissioner of administration shall  
86 draw warrants upon the state treasurer for the payment of such sum, or so much thereof as  
87 may be required, upon receipt of proper vouchers provided by the director of the state  
88 emergency management agency.

89           8. The provisions of this section shall be liberally construed in order to accomplish  
90 the purposes of sections 44.010 to 44.130 and to permit the governor to cope adequately with  
91 any emergency which may arise, and the powers vested in the governor by this section shall  
92 be construed as being in addition to all other powers presently vested in the governor and not  
93 in derogation of any existing powers.

94           9. Such funds as may be made available by the government of the United States for  
95 the purpose of alleviating distress from disasters may be accepted by the state treasurer and  
96 shall be credited to the Missouri disaster fund, unless otherwise specifically provided in the  
97 act of Congress making such funds available.

98           10. The foregoing provisions of this section notwithstanding, any expenditure or  
99 proposed series of expenditures which total in excess of one thousand dollars per project shall  
100 be approved by the governor prior to the expenditure.

**393.1275. 1. The provisions of section 386.020 defining words, phrases, and  
2 terms shall apply to and determine the meaning of all such words, phrases, or terms as  
3 used in this section.**

4           **2. Electrical corporations, gas corporations, sewer corporations, and water  
5 corporations shall defer to a regulatory asset or liability account any difference in state  
6 or local property tax expenses actually incurred, and those on which the revenue  
7 requirement used to set rates in the corporation's most recently completed general rate  
8 proceeding was based. The regulatory asset or liability account balances shall be  
9 included in the revenue requirement used to set rates through an amortization over a  
10 reasonable period of time in such corporation's subsequent general rate proceedings.  
11 The commission shall also adjust the rate base used to establish the revenue  
12 requirement of such corporation to reflect the unamortized regulatory asset or  
13 liability account balances in such general rate proceedings. Such expenditures deferred  
14 under the provisions of this section are subject to commission prudence review in the  
15 next general rate proceeding after deferral.**

393.1400. 1. For purposes of this section, the following terms shall mean:

2           (1) "Commission", the public service commission;

3           (2) "Electrical corporation", the same as defined in section 386.020, but shall not  
4 include an electrical corporation as described in subsection 2 of section 393.110;

5           (3) "Qualifying electric plant", all rate-base additions, except rate-base additions for  
6 new coal-fired generating units, new nuclear generating units, new natural gas units, or rate-  
7 base additions that increase revenues by allowing service to new customer premises;

8           (4) "Rate-base cutoff date", the date rate-base additions are accounted for in a general  
9 rate proceeding. In the absence of a commission order that specifies the rate-base cutoff date,  
10 such date as reflected in any jointly proposed procedural schedule submitted by the parties in

11 the applicable general rate proceeding, or as otherwise agreed to by such parties, shall be  
12 used;

13 (5) "Weighted average cost of capital", the return on rate base used to determine the  
14 revenue requirement in the electrical corporation's most recently completed general rate  
15 proceeding; provided, that in the absence of a commission determination of the return on rate  
16 base within the three-year period prior to August 28, ~~2018~~ **2022**, the weighted average cost  
17 of capital shall be determined using the electrical corporation's actual capital structure as of  
18 December 31, ~~2017~~ **2021**, excluding short-term debt, the electrical corporation's actual cost  
19 of long-term debt and preferred stock as of December 31, ~~2017~~ **2021**, and a cost of common  
20 equity of nine and one-half percent.

21 2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical  
22 corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense  
23 and return associated with all qualifying electric plant recorded to plant-in-service on the  
24 utility's books commencing on or after August 28, 2018, if the electrical corporation has made  
25 the election provided for by subsection 5 of this section by that date, or on the date such  
26 election is made if the election is made after August 28, 2018. In each general rate  
27 proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate-  
28 base cutoff date shall, **subject only to the cap provided for in section 393.1655 or section**  
29 **393.1656, as applicable**, be included in the electrical corporation's rate base without any  
30 offset, reduction, or adjustment based upon consideration of any other factor, other than as  
31 provided for in subdivision (2) of this subsection, with the regulatory asset balance arising  
32 from deferrals associated with qualifying electric plant placed in service after the rate-base  
33 cutoff date to be included in rate base in the next general rate proceeding. The expiration of  
34 this section shall not affect the continued inclusion in rate base and amortization of regulatory  
35 asset balances that arose under this section prior to such expiration.

36 (2) The regulatory asset balances arising under this section shall be adjusted to reflect  
37 any prudence disallowances ordered by the commission. The provisions of this section shall  
38 not be construed to affect existing law respecting the burdens of production and persuasion in  
39 general rate proceedings for rate-base additions.

40 (3) Parts of regulatory asset balances created under this section that are not yet being  
41 recovered through rates shall include carrying costs at the electrical corporation's weighted  
42 average cost of capital, plus applicable federal, state, and local income or excise taxes.  
43 Regulatory asset balances arising under this section and included in rate base shall be  
44 recovered in rates through a twenty-year amortization beginning on the date new rates  
45 reflecting such amortization take effect.

46           3. (1) Depreciation expense deferred under this section shall account for all  
47 qualifying electric plant placed into service less retirements of plant replaced by such  
48 qualifying electric plant.

49           (2) Return deferred under this section shall be determined using the weighted average  
50 cost of capital applied to the change in plant-related rate base caused by the qualifying electric  
51 plant, plus applicable federal, state, and local income or excise taxes. In determining the  
52 return deferred, the electrical corporation shall account for changes in all plant-related  
53 accumulated deferred income taxes and changes in accumulated depreciation, excluding  
54 retirements.

55           4. Beginning February 28, 2019, and by each February twenty-eighth thereafter while  
56 the electrical corporation is allowed to make the deferrals provided for by subsection 2 of this  
57 section, electrical corporations that defer depreciation expense and return authorized under  
58 this section shall submit to the commission a five-year capital investment plan setting forth  
59 the general categories of capital expenditures the electrical corporation will pursue in  
60 furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also  
61 include a specific capital investment plan for the first year of the five-year plan consistent  
62 with the level of specificity used for annual capital budgeting purposes. For each of the first  
63 five years that an electrical corporation is allowed to make the deferrals provided for by  
64 subsection 2 of this section, the purchase and installation of smart meters shall constitute no  
65 more than six percent of the electrical corporation's total capital expenditures during any  
66 given year under the corporation's specific capital investment plan. At least twenty-five  
67 percent of the cost of each year's capital investment plan shall be comprised of grid  
68 modernization projects, including but not limited to:

69           (1) Increased use of digital information and controls technology to improve  
70 reliability, security, and efficiency of the electric grid;

71           (2) Dynamic optimization of grid operations and resources, with full cybersecurity;

72           (3) Deployment and integration of distributed resources and generation, including  
73 renewable resources;

74           (4) Development and incorporation of demand response, demand-side resources, and  
75 energy-efficiency resources;

76           (5) Deployment of smart technologies (real-time, automated, interactive technologies  
77 that optimize the physical operation of appliances and consumer devices) for metering,  
78 communications, concerning grid operations and status, and distribution automation;

79           (6) Integration of smart appliances and devices;

80           (7) Deployment and integration of advanced electricity storage and peak-shaving  
81 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage air  
82 conditioning;

- 83 (8) Provision of timely information and control options to consumer;  
84 (9) Development of standards for communication and interoperability of appliances  
85 and equipment connected to the electric grid, including the infrastructure serving the grid; and  
86 (10) Identification and lowering of unreasonable or unnecessary barriers to adoption  
87 of smart grid technologies, practices, and services.

88  
89 Project specific information need not be included for the five-year period covered by the plan.  
90 Within thirty days of the filing of any capital investment plan or annual update to an existing  
91 plan, the electrical corporation shall host a public stakeholder meeting to answer questions  
92 and receive feedback about the plan. After feedback is received, the electrical corporation  
93 shall file a notice with the commission of any modifications to the capital investment plan it  
94 has accepted. Changes to the plan, its implementation, or the level of investments made shall  
95 not constitute evidence of imprudence of the investments made under such plan. The  
96 submission of a capital investment plan under this section shall not affect in any way the  
97 commission's authority with respect to the grant or denial of a certificate of convenience and  
98 necessity under section 393.170. By February twenty-eighth following each year in which  
99 the electrical corporation submits a capital investment plan, the electrical corporation shall  
100 submit a report to the commission detailing actual capital investments made the previous year.

101 5. This section shall only apply to any electrical corporation that has filed a notice  
102 with the commission of the electrical corporation's election to make the deferrals for which  
103 this section provides. No electrical corporation shall file a notice with the commission under  
104 this subsection if such corporation has made an application under subsection 3 of section  
105 386.266, and such application has been approved. An electrical corporation's election shall  
106 allow it to make the deferrals provided for by subsection 2 of this section until December 31,  
107 ~~[2023]~~ **2033**, unless the electrical corporation requests and the commission approves the  
108 continuation of such deferrals beyond that date and approves continuation of the discounts  
109 authorized by section 393.1640 beyond that date as hereinafter provided. An electrical  
110 corporation that wishes to continue to make the deferrals provided for by subsection 2 of this  
111 section from January 1, ~~[2024]~~ **2034**, through December 31, ~~[2028]~~ **2038**, shall obtain the  
112 commission's approval to do so, shall be subject to the ~~[compound annual growth rate~~  
113 ~~limitations]~~ **revenue requirement impact cap** set forth under section ~~[393.1655]~~ **393.1656**,  
114 and shall also obtain the commission's approval to continue to provide the discounts  
115 authorized by section 393.1640 in a commission order issued on or before December 31,  
116 ~~[2023]~~ **2033**. The commission shall have the authority to grant or deny such approval based  
117 upon the commission's evaluation of the costs and benefits of such continuation to electrical  
118 corporations and consumers, but shall not be authorized to condition such approval or  
119 otherwise modify the deferrals authorized by subsection 2 of this section, or the discounts

120 authorized by section 393.1640. In deciding whether to extend the program for an additional  
121 five years, the commission shall develop an objective analytical framework to determine  
122 whether there is a continuing need. The commission shall make a finding about whether there  
123 is a continuing need after hearing. Failure to obtain such commission approval shall not  
124 affect deferrals made through December 31, ~~[2023]~~ **2033**, or the regulatory and ratemaking  
125 treatment of the regulatory assets arising from such deferrals as provided for by this section.

126 6. This section shall expire on December 31, ~~[2028]~~ **2038**, except that the  
127 amortization of the regulatory asset balances arising under this section shall continue to be  
128 reflected in the electrical corporation's rates and remaining regulatory asset balances shall be  
129 included in the electrical corporation's rate base consistent with the ratemaking treatment and  
130 amortization previously approved by the commission pursuant to this section.

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section,  
2 and upon proper application by an eligible customer prior to public announcement of a  
3 growth project, a new or existing account meeting the ~~[following]~~ criteria **in this subsection**  
4 shall ~~[be considered]~~ **qualify** for ~~[qualification for]~~ **one of the [discount] discounts** set forth  
5 in **subdivision (1) or (2) of this subsection [if]:**

6 (1) ~~[The customer adds incremental load, net of any offsetting load reductions due to~~  
7 ~~the termination of other accounts of the customer or an affiliate of the customer within twelve~~  
8 ~~months prior to the commencement of service to the new load, with average monthly demand~~  
9 ~~that is reasonably projected to be at least three hundred kilowatts with a load factor of at least~~  
10 ~~fifty five percent within two years after the date the application is submitted;~~

11 (2) ~~The customer receives local, regional, or state economic development incentives~~  
12 ~~in conjunction with the incremental load; and~~

13 (3) ~~The customer meets the criteria set forth in the electrical corporation's economic~~  
14 ~~development rider tariff sheet, as approved by the commission, that are not inconsistent with~~  
15 ~~the provisions of this subsection.]~~ **When the new load is reasonably projected to be at least**  
16 **three hundred kilowatts but not more than ten megawatts and have a load factor of at**  
17 **least forty-five percent, the discount shall equal thirty-five percent and shall apply for**  
18 **five years, provided that if it is expected as of the date the discount is to commence that a**  
19 **thirty-five percent discount would produce revenues from the applicant's total bill that**  
20 **would not exceed the electrical corporation's variable cost to serve the applicant's**  
21 **account or accounts that are to receive the discount, the discount shall be determined so**  
22 **that the percentage discount, rounded to the nearest one percent, is expected as of the**  
23 **date the discount percentage is determined to provide revenues equal to one hundred**  
24 **twenty percent of the electrical corporation's variable cost to serve the applicant's**  
25 **account or accounts that are to receive the discount;**



26           **(2) When the new load is reasonably projected to be more than ten megawatts**  
27 **and have a load factor of at least fifty-five percent, the discount percentage, rounded to**  
28 **the nearest one percent, shall be determined such that the applicant's total bill is**  
29 **expected, as of the date the discount percentage is determined, to provide revenues equal**  
30 **to one hundred twenty percent of the electrical corporation's variable cost to serve the**  
31 **applicant's account or accounts that are to receive the discount. Such discount shall**  
32 **apply for ten years.**

33

34 **To obtain one of the discounts set forth in subdivision (1) or (2) of this subsection, the**  
35 **customer's load shall be incremental, net of any offsetting load reductions due to the**  
36 **termination of other accounts of the customer or an affiliate of the customer within**  
37 **twelve months prior to the commencement of service to the new load, the customer shall**  
38 **receive an economic development incentive from the local, regional, state, or federal**  
39 **government, or from an agency or program of any such government, in conjunction**  
40 **with the incremental load, and the customer shall meet the criteria set forth in the**  
41 **electrical corporation's economic development rider tariff sheet, as approved by the**  
42 **commission, that are not inconsistent with the provisions of this subsection. Unless**  
43 **otherwise provided for by the electrical corporation's tariff, the applicable discount shall**  
44 **be a percentage applied to all base-rate components of the bill. ~~[The percentage shall be fixed~~**  
45 **~~for each year of service under the discount for a period of up to five years. Subject to the~~**  
46 **~~remaining provisions of this subsection, the average of the annual discount percentages shall~~**  
47 **~~equal forty percent and shall not be less than thirty percent nor more than fifty percent in any~~**  
48 **~~year.] The discount shall be applied to such incremental load from the date when the meter~~**  
49 **has been permanently set until the date that such incremental load no longer meets the criteria**  
50 **required to qualify for the discount, as determined under the provisions of subsection 2 of this**  
51 **section. An eligible customer shall also receive a ten percent discount of all base-rate**  
52 **components of the bill applied to such incremental load for an additional one year [after]**  
53 **period beyond the [initial] period during which the applicable discount [period ends]**  
54 **under subdivision (1) or (2) of this subsection applies if the electrical corporation**  
55 **determines that the customer is taking service from an under-utilized circuit. ~~[In no event~~**  
56 **~~shall a customer receive a discount under this subsection after December 31, 2028.] The~~**  
57 **electrical corporation may include in its tariff additional or alternative terms and conditions to**  
58 **a customer's utilization of the discount, subject to approval of such terms and conditions by**  
59 **the commission. The customer, on forms supplied by the electrical corporation, shall apply**  
60 **for the applicable discount provided for by this subsection at least ninety days prior to the**  
61 **date the customer requests that the incremental demand receive one of the discounts provided**  
62 **for by this subsection and shall enter into a written agreement with the electrical**

63 **corporation reflecting the discount percentages and other pertinent details.** If the  
64 incremental demand is not separately metered, the electrical corporation's determination of  
65 the incremental demand shall control. **The electrical corporation shall verify the**  
66 **customer's incremental demand annually to determine continued qualification for the**  
67 **applicable discount.** Notwithstanding the foregoing provisions of this subsection, the cents-  
68 per-kilowatt-hour realization resulting from application of any ~~[such]~~ discounted ~~[rate]~~ **rates**  
69 as calculated shall be higher than the electrical corporation's variable cost to serve such  
70 ~~[accounts in aggregate]~~ **incremental demand** and the **applicable** discounted rate also shall  
71 make a positive contribution to fixed costs associated with ~~[such]~~ service **to such**  
72 **incremental demand.** If in a subsequent general rate proceeding the commission  
73 determines that application of ~~[such]~~ a discounted rate is not adequate to cover the  
74 electrical corporation's variable cost to serve ~~[such]~~ **the accounts in question** and provide a  
75 positive contribution to fixed costs then the commission shall increase the rate **for those**  
76 **accounts** prospectively to the extent necessary to do so.

77 2. In each general rate proceeding concluded after August 28, ~~[2018]~~ **2022**, the  
78 ~~[reduced level of]~~ **difference in** revenues ~~[arising from]~~ **generated by applying** the  
79 ~~[application of]~~ discounted rates provided for by ~~[subsection 1 of]~~ **this section and the**  
80 **revenues that would have been generated without such discounts shall not be imputed**  
81 **into the electrical corporation's revenue requirement. Instead, such revenue**  
82 **requirement shall be set using the revenues generated by such discounted rates and**  
83 **the impact of the discounts provided for by** this section shall be allocated to all the  
84 electrical corporation's customer classes, including the classes with customers that qualify for  
85 discounts under this section~~[- This increase shall be implemented]~~ through the application of  
86 a uniform percentage adjustment to the revenue requirement responsibility of all customer  
87 classes. To qualify for the discounted rates provided for in this section, ~~[if incremental load is~~  
88 ~~separately metered,]~~ customers shall meet the applicable criteria within twenty-four months  
89 ~~[after the date the meter is permanently set]~~ **of initially receiving discounts** based on  
90 metering data for calendar months thirteen through twenty-four and annually thereafter. If  
91 such data indicates that the customer did not meet ~~[the criteria]~~ **both of the three hundred**  
92 **kilowatt and forty-five or fifty-five percent load factor requirements** for any applicable  
93 twelve-month period, it shall thereafter no longer qualify for ~~[the]~~ a discounted rate. **For**  
94 **customers receiving service under subdivision (2) of subsection 1 of this section, if after**  
95 **the fourth year, the demand has not exceeded ten thousand kilowatts during any twelve-**  
96 **month period, the customer's qualification shall revert to subdivision (1) of subsection 1**  
97 **of this section.** The provisions of this section do not supersede or limit the ability of an  
98 electrical corporation to continue to utilize economic development or retention tariffs  
99 previously approved by the commission that are in effect on August 28, ~~[2018]~~ **2022.** If,

100 however, a customer is receiving any economic development or retention-related discounts as  
101 of the date it would otherwise qualify for a discount provided for by this section, the customer  
102 shall agree to relinquish the prior discount concurrently with the date it begins to receive a  
103 discount under this section; otherwise, the customer shall not be eligible to receive any  
104 discount under this section. Customer demand existing at the time the customer begins to  
105 receive discounted rates under this section shall not constitute incremental demand. The  
106 discounted rates provided for by this section apply only to base-rate components, with the  
107 charges or credits arising from any rate adjustment mechanism authorized by law to be  
108 applied to customers qualifying for discounted rates under this section in the same manner as  
109 such rate adjustments would apply in the absence of this section.

110 3. For purposes of this section, "electrical corporation" shall mean the same as  
111 defined in section 386.020, but shall not include an electrical corporation as described in  
112 subsection 2 of section 393.110.

113 4. This section shall expire on December 31, ~~[2028]~~ **2038**, provided, that unless the  
114 electrical corporation has timely obtained the order provided for by subsection 5 of section  
115 393.1400, the electrical corporation's customers shall, after December 31, ~~[2023]~~ **2033**, no  
116 longer receive the discounts provided under this section.

393.1655. 1. This section applies to an electrical corporation that has elected to  
2 exercise any option under section 393.1400 and that has more than two hundred thousand  
3 Missouri retail customers in 2018, and shall continue to apply to such electrical corporation  
4 until December 31, 2023~~], if the commission has not issued an order approving continuation~~  
5 ~~of the deferrals authorized by subsection 2 of section 393.1400, and continuation of the~~  
6 ~~discounts authorized by section 393.1640 as authorized by subsection 5 of section 393.1400~~  
7 ~~with respect to the electrical corporation, or until December 31, 2028, if the commission has~~  
8 ~~issued such an order with respect to the electrical corporation].~~

9 2. Notwithstanding any other provision of law and except as otherwise provided for  
10 by this section, an electrical corporation's base rates shall be held constant for a period  
11 starting on the date new base rates were established in the electrical corporation's last general  
12 rate proceeding concluded prior to the date the electrical corporation gave notice under  
13 subsection 5 of section 393.1400 and ending on the third anniversary of that date, unless a  
14 force majeure event as determined by the commission occurs. Whether a force majeure event  
15 has occurred shall be subject to commission review and approval in a general rate proceeding,  
16 and shall not preclude the commission from reviewing the prudence of any revenue  
17 reductions or costs incurred during any proceeding to set rates. This subsection shall not  
18 affect the electrical corporation's ability to adjust its nonbase rates during the three-year  
19 period provided for in this subsection as authorized by its commission-approved rate

20 adjustment mechanisms arising under section 386.266, 393.1030, or 393.1075, or as  
21 authorized by any other rate adjustment mechanism authorized by law.

22         3. This subsection shall apply to electrical corporations that have a general rate  
23 proceeding pending before the commission as of the later of February 1, 2018, or August 28,  
24 2018. If the difference between (a) the electrical corporation's average overall rate at any  
25 point in time while this section applies to the electrical corporation, and (b) the electrical  
26 corporation's average overall rate as of the date new base rates are set in the electrical  
27 corporation's most recent general rate proceeding concluded prior to the date the electrical  
28 corporation gave notice under section 393.1400, reflects a compound annual growth rate of  
29 more than three percent, the electrical corporation shall not recover any amount in excess of  
30 such three percent as a performance penalty.

31         4. This section shall apply to electrical corporations that do not have a general rate  
32 proceeding pending before the commission as of the later of February 1, 2018, or August 28,  
33 2018. If the difference between (a) the electrical corporation's average overall rate at any  
34 point in time while this section applies to the electrical corporation, and (b) the average of (i)  
35 the electrical corporation's average overall rate as of the date new base rates are set in the  
36 electrical corporation's most recent general rate proceeding concluded prior to the date the  
37 electrical corporation gave notice under section 393.1400, and (ii) the electrical corporation's  
38 average overall rate set under section 393.137, reflects a compound annual growth rate of  
39 more than two and eighty-five hundredths percent, the electrical corporation shall not recover  
40 any amount in excess of such two and eighty-five hundredths percent as a performance  
41 penalty.

42         5. If a change in any rates charged under a rate adjustment mechanism approved by  
43 the commission under sections 386.266 and 393.1030 would cause an electrical corporation's  
44 average overall rate to exceed the compound annual growth rate limitation set forth in  
45 subsection 3 or 4 of this section, the electrical corporation shall reduce the rates charged  
46 under that rate adjustment mechanism in an amount sufficient to ensure that the compound  
47 annual growth rate limitation set forth in subsection 3 or 4 of this section is not exceeded due  
48 to the application of the rate charged under such mechanism and the performance penalties  
49 under such subsections are not triggered. Sums not recovered under any such mechanism  
50 because of any reduction in rates under such a mechanism pursuant to this subsection shall be  
51 deferred to and included in the regulatory asset arising under section 393.1400 or, if  
52 applicable, under the regulatory and ratemaking treatment ordered by the commission under  
53 section 393.1400, and recovered through an amortization in base rates in the same manner as  
54 deferrals under that section or order are recovered in base rates.

55         6. If the difference between (a) the electrical corporation's class average overall rate at  
56 any point in time while this section applies to the electrical corporation, and (b) the electrical

57 corporation's class average overall rate as of the date rates are set in the electrical  
58 corporation's most recent general rate proceeding concluded prior to the date the electrical  
59 corporation gave notice under subsection 5 of section 393.1400, reflects a compound annual  
60 growth rate of more than two percent for the large power service rate class, the class average  
61 overall rate shall increase by an amount so that the increase shall equal a compound annual  
62 growth rate of two percent over such period for such large power service rate class, with the  
63 reduced revenues arising from limiting the large power service class average overall rate  
64 increase to two percent to be allocated to all the electrical corporation's other customer classes  
65 through the application of a uniform percentage adjustment to the revenue requirement  
66 responsibility of all the other customer classes.

67 7. For purposes of this section, the following terms shall mean:

68 (1) "Average base rate", a rate calculated by dividing the total retail revenue  
69 requirement for all the electrical corporation's rate classes by the total sales volumes stated in  
70 kilowatt-hours for all such rate classes used to set rates in the applicable general rate  
71 proceeding, exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

72 (2) "Average overall rate", a rate equal to the sum of the average base rate and the  
73 average rider rate;

74 (3) "Average rider rate", a rate calculated by dividing the total of the sums to be  
75 recovered from all customer classes under the electrical corporation's rate adjustment  
76 mechanisms in place other than a rate adjustment mechanism under section 393.1075 by the  
77 total sales volumes stated in kilowatt-hours for all of the electrical corporation's rate classes  
78 used to set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales  
79 tax, and other similar pass-through taxes;

80 (4) "Class average base rate", a rate calculated by dividing the retail revenue  
81 requirement from the applicable general rate proceeding that is allocated to the electrical  
82 corporation's large power service rate class in that general rate proceeding, by the total sales  
83 volumes stated in kilowatt-hours for that class used to set rates in that general rate proceeding,  
84 exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

85 (5) "Class average overall rate", a rate equal to the sum of the class average base rate  
86 and the class average rider rate;

87 (6) "Class average rider rate", a rate calculated by dividing the total of the sums  
88 allocated for recovery from the large power service rate class under the electrical  
89 corporation's rate adjustment mechanisms in place other than a rate adjustment mechanism  
90 under section 393.1075 by the total sales volumes stated in kilowatt-hours for that class used  
91 to set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales tax,  
92 and other similar pass-through taxes;

93 (7) "Force majeure event", an event or circumstance that occurs as a result of a  
94 weather event, an act of God, war, terrorism, or other event which threatens the financial  
95 integrity of the electrical corporation that causes a reduction in revenues, an increase in the  
96 cost of providing electrical service, or some combination thereof, and the event has an  
97 associated fiscal impact on the electrical corporation's operations equal to three percent or  
98 greater of the total revenue requirement established in the electrical corporation's last general  
99 rate proceeding after taking into account the financial impact specified in section 393.137.  
100 Any force majeure event shall be subject to commission review and approval, and shall not  
101 preclude the commission from reviewing the prudence of any revenue reductions or costs  
102 incurred during any proceeding to set rates;

103 (8) "Large power service rate class", the rate class of each corporation that requires  
104 the highest minimum monthly billing demand of all of the electrical corporation's rate classes  
105 in order to qualify as a member of such rate class, and that applies to qualifying customers  
106 only if they utilize the electrical corporation's distribution system.

**393.1656. 1. This section applies on January 1, 2024, to an electrical corporation  
2 that has elected to exercise any option under section 393.1400, and shall continue to  
3 apply to such electrical corporation until December 31, 2033, if the commission has not  
4 issued an order approving continuation of the deferrals authorized by subsection 2 of  
5 section 393.1400, and continuation of the discounts authorized by section 393.1640 as  
6 authorized by subsection 5 of section 393.1400 with respect to the electrical corporation,  
7 or until December 31, 2038, if the commission has issued such an order with respect to  
8 the electrical corporation.**

9 **2. That part of the electrical corporation's retail revenue requirement used to set  
10 the electrical corporation's base rates in each of the electrical corporation's general rate  
11 proceedings that are concluded on or after August 31, 2023, that consists of revenue  
12 requirement arising from inclusion in rate base of the section 393.1400 regulatory asset  
13 balance shall not exceed the revenue requirement impact cap. If inclusion in rate base  
14 of the full balance of the subject section 393.1400 regulatory asset would cause the  
15 electrical corporation to exceed the revenue requirement impact cap, that part of the  
16 balance necessary to prevent inclusion of the full balance from causing an exceedance of  
17 the revenue requirement impact cap shall not be included in rate base and the section  
18 393.1400 regulatory asset balance shall be reduced accordingly as a penalty.**

19 **3. For purposes of this section, the following terms shall mean:**

20 **(1) "Commission", the public service commission;**

21 **(2) "Electrical corporation", the same as defined in section 386.020, but shall not  
22 include an electrical corporation as described in subsection 2 of section 393.110;**

23           **(3) "Rate-base cutoff date", the date rate-base additions are accounted for in a**  
24 **general rate proceeding. In the absence of a commission order that specifies the rate-**  
25 **base cutoff date, such date as reflected in any jointly proposed procedural schedule**  
26 **submitted by the parties in the applicable general rate proceeding, or as otherwise**  
27 **agreed to by such parties, shall be used;**

28           **(4) "Revenue requirement impact cap", the product of (i) one-twelfth of two and**  
29 **one-half percent, multiplied by (ii) the number of months that have elapsed from the**  
30 **effective date of new base rates in the electrical corporation's most recently completed**  
31 **general rate proceeding to the effective date of new base rates in the general rate**  
32 **proceeding in which the cap is being applied, with that product to be multiplied by the**  
33 **retail revenue requirement used to set base rates in the electrical corporation's most**  
34 **recently completed general rate proceeding concluded prior to the general rate**  
35 **proceeding in which the cap is being applied;**

36           **(5) "Subject section 393.1400 regulatory asset", deferrals under section 393.1400**  
37 **from the rate-base cutoff date in the electrical corporation's prior general rate**  
38 **proceeding to the rate-base cutoff date in the current general rate proceeding in which**  
39 **the cap reflected in subsection 2 of this section is being applied.**

          393.1700. 1. For purposes of sections 393.1700 to 393.1715, the following terms  
2 shall mean:

3           (1) "Ancillary agreement", a bond, insurance policy, letter of credit, reserve account,  
4 surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit  
5 support arrangement, or other financial arrangement entered into in connection with  
6 securitized utility tariff bonds;

7           (2) "Assignee", a legally recognized entity to which an electrical corporation assigns,  
8 sells, or transfers, other than as security, all or a portion of its interest in or right to securitized  
9 utility tariff property. The term includes a corporation, limited liability company, general  
10 partnership or limited partnership, public authority, trust, financing entity, or any entity to  
11 which an assignee assigns, sells, or transfers, other than as security, its interest in or right to  
12 securitized utility tariff property;

13           (3) "Bondholder", a person who holds a securitized utility tariff bond;

14           (4) "Code", the uniform commercial code, chapter 400;

15           (5) "Commission", the Missouri public service commission;

16           (6) "Electrical corporation", the same as defined in section 386.020, but shall not  
17 include an electrical corporation as described in subsection 2 of section 393.110;

18           (7) "Energy transition costs" include all of the following:

19           (a) Pretax costs with respect to a retired or abandoned or to be retired or abandoned  
20 electric generating facility that is the subject of a petition for a financing order filed under this

21 section where such early retirement or abandonment is deemed reasonable and prudent by the  
22 commission through a final order issued by the commission, include, but are not limited to,  
23 the undepreciated investment in the retired or abandoned or to be retired or abandoned  
24 electric generating facility and any facilities ancillary thereto or used in conjunction  
25 therewith, costs of decommissioning and restoring the site of the electric generating facility,  
26 other applicable capital and operating costs, accrued carrying charges, and deferred expenses,  
27 with the foregoing to be reduced by applicable tax benefits of accumulated and excess  
28 deferred income taxes, insurance, scrap and salvage proceeds, and may include the cost of  
29 retiring any existing indebtedness, fees, costs, and expenses to modify existing debt  
30 agreements or for waivers or consents related to existing debt agreements;

31 (b) Pretax costs that an electrical corporation has previously incurred related to the  
32 retirement or abandonment of such an electric generating facility occurring before August 28,  
33 2021;

34 (8) "Financing costs" includes all of the following:

35 (a) Interest and acquisition, defeasance, or redemption premiums payable on  
36 securitized utility tariff bonds;

37 (b) Any payment required under an ancillary agreement and any amount required to  
38 fund or replenish a reserve account or other accounts established under the terms of any  
39 indenture, ancillary agreement, or other financing documents pertaining to securitized utility  
40 tariff bonds;

41 (c) Any other cost related to issuing, supporting, repaying, refunding, and servicing  
42 securitized utility tariff bonds, including servicing fees, accounting and auditing fees, trustee  
43 fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and  
44 underwriting fees, independent director and manager fees, capitalized interest, rating agency  
45 fees, stock exchange listing and compliance fees, security registration fees, filing fees,  
46 information technology programming costs, and any other costs necessary to otherwise  
47 ensure the timely payment of securitized utility tariff bonds or other amounts or charges  
48 payable in connection with the bonds, including costs related to obtaining the financing order;

49 (d) Any taxes and license fees or other fees imposed on the revenues generated from  
50 the collection of the securitized utility tariff charge or otherwise resulting from the collection  
51 of securitized utility tariff charges, in any such case whether paid, payable, or accrued;

52 (e) Any state and local taxes, franchise, gross receipts, and other taxes or similar  
53 charges, including commission assessment fees, whether paid, payable, or accrued;

54 (f) Any costs associated with performance of the commission's responsibilities under  
55 this section in connection with approving, approving subject to conditions, or rejecting a  
56 petition for a financing order, and in performing its duties in connection with the issuance



57 advice letter process, including costs to retain counsel, one or more financial advisors, or  
58 other consultants as deemed appropriate by the commission and paid pursuant to this section;

59 (9) "Financing order", an order from the commission that authorizes the issuance of  
60 securitized utility tariff bonds; the imposition, collection, and periodic adjustments of a  
61 securitized utility tariff charge; the creation of securitized utility tariff property; and the sale,  
62 assignment, or transfer of securitized utility tariff property to an assignee;

63 (10) "Financing party", bondholders and trustees, collateral agents, any party under  
64 an ancillary agreement, or any other person acting for the benefit of bondholders;

65 (11) "Financing statement", the same as defined in article 9 of the code;

66 (12) "Pledgee", a financing party to which an electrical corporation or its successors  
67 or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any  
68 portion of its interest in or right to securitized utility tariff property;

69 (13) "Qualified extraordinary costs", costs incurred prudently before, on, or after  
70 August 28, 2021, of an extraordinary nature which would cause extreme customer rate  
71 impacts if reflected in retail customer rates recovered through customary ratemaking, such as  
72 but not limited to those related to purchases of fuel or power, inclusive of carrying charges,  
73 during anomalous weather events;

74 (14) "Rate base cutoff date", the same as defined in subdivision (4) of subsection 1 of  
75 section 393.1400 as such term existed on August 28, 2021;

76 (15) "Securitized utility tariff bonds", bonds, debentures, notes, certificates of  
77 participation, certificates of beneficial interest, certificates of ownership, or other evidences  
78 of indebtedness or ownership that are issued by an electrical corporation or an assignee  
79 pursuant to a financing order, the proceeds of which are used directly or indirectly to recover,  
80 finance, or refinance commission-approved securitized utility tariff costs and financing costs,  
81 and that are secured by or payable from securitized utility tariff property. If certificates of  
82 participation or ownership are issued, references in this section to principal, interest, or  
83 premium shall be construed to refer to comparable amounts under those certificates;

84 (16) "Securitized utility tariff charge", the amounts authorized by the commission to  
85 repay, finance, or refinance securitized utility tariff costs and financing costs and that are,  
86 except as otherwise provided for in this section, nonbypassable charges imposed on and part  
87 of all retail customer bills, collected by an electrical corporation or its successors or assignees,  
88 or a collection agent, in full, separate and apart from the electrical corporation's base rates,  
89 and paid by all existing or future retail customers receiving electrical service from the  
90 electrical corporation or its successors or assignees under commission-approved rate  
91 schedules, except for customers receiving electrical service under special contracts as of  
92 August 28, 2021, even if a retail customer elects to purchase electricity from an alternative

93 electricity supplier following a fundamental change in regulation of public utilities in this  
94 state;

95 (17) "Securitized utility tariff costs", either energy transition costs or qualified  
96 extraordinary costs as the case may be;

97 (18) "Securitized utility tariff property", all of the following:

98 (a) All rights and interests of an electrical corporation or successor or assignee of the  
99 electrical corporation under a financing order, including the right to impose, bill, charge,  
100 collect, and receive securitized utility tariff charges authorized under the financing order and  
101 to obtain periodic adjustments to such charges as provided in the financing order;

102 (b) All revenues, collections, claims, rights to payments, payments, money, or  
103 proceeds arising from the rights and interests specified in the financing order, regardless of  
104 whether such revenues, collections, claims, rights to payment, payments, money, or proceeds  
105 are imposed, billed, received, collected, or maintained together with or commingled with  
106 other revenues, collections, rights to payment, payments, money, or proceeds;

107 (19) "Special contract", electrical service provided under the terms of a special  
108 incremental load rate schedule at a fixed price rate approved by the commission.

109 2. (1) An electrical corporation may petition the commission for a financing order to  
110 finance energy transition costs through an issuance of securitized utility tariff bonds. The  
111 petition shall include all of the following:

112 (a) A description of the electric generating facility or facilities that the electrical  
113 corporation has retired or abandoned, or proposes to retire or abandon, prior to the date that  
114 all undepreciated investment relating thereto has been recovered through rates and the reasons  
115 for undertaking such early retirement or abandonment, or if the electrical corporation is  
116 subject to a separate commission order or proceeding relating to such retirement or  
117 abandonment as contemplated by subdivision (2) of this subsection, and a description of the  
118 order or other proceeding;

119 (b) The energy transition costs;

120 (c) An indicator of whether the electrical corporation proposes to finance all or a  
121 portion of the energy transition costs using securitized utility tariff bonds. If the electrical  
122 corporation proposes to finance a portion of the costs, the electrical corporation shall identify  
123 the specific portion in the petition. By electing not to finance all or any portion of such  
124 energy transition costs using securitized utility tariff bonds, an electrical corporation shall not  
125 be deemed to waive its right to recover such costs pursuant to a separate proceeding with the  
126 commission;

127 (d) An estimate of the financing costs related to the securitized utility tariff bonds;

128 (e) An estimate of the securitized utility tariff charges necessary to recover the  
129 securitized utility tariff costs and financing costs and the period for recovery of such costs;

(f) A comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the traditional method of financing and recovering the undepreciated investment of facilities that may become securitized utility tariff costs from customers. The comparison should demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers;

(g) A proposed future ratemaking process to reconcile any differences between securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized costs incurred by the electrical corporation or assignee provided that any such reconciliation shall not affect the amount of securitized utility tariff bonds or the associated securitized utility tariff charges paid by customers; and

(h) Direct testimony supporting the petition.

(2) An electrical corporation may petition the commission for a financing order to finance qualified extraordinary costs. The petition shall include all of the following:

(a) A description of the qualified extraordinary costs, including their magnitude, the reasons those costs were incurred by the electrical corporation and the retail customer rate impact that would result from customary ratemaking treatment of such costs;

(b) An indicator of whether the electrical corporation proposes to finance all or a portion of the qualified extraordinary costs using securitized utility tariff bonds. If the electrical corporation proposes to finance a portion of the costs, the electrical corporation shall identify the specific portion in the petition. By electing not to finance all or any portion of such qualified extraordinary costs using securitized utility tariff bonds, an electrical corporation shall not be deemed to waive its right to reflect such costs in its retail rates pursuant to a separate proceeding with the commission;

(c) An estimate of the financing costs related to the securitized utility tariff bonds;

(d) An estimate of the securitized utility tariff charges necessary to recover the qualified extraordinary costs and financing costs and the period for recovery of such costs;

(e) A comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the customary method of financing and reflecting the qualified extraordinary costs in retail customer rates. The comparison should demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to retail customers;

(f) A proposed future ratemaking process to reconcile any differences between securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized costs incurred by the electrical corporation or assignee provided that any such

167 reconciliation shall not affect the amount of securitized utility tariff bonds or the associated  
168 securitized utility tariff charges paid by customers; and

169 (g) Direct testimony supporting the petition.

170 (3) (a) Proceedings on a petition submitted pursuant to this subsection begin with the  
171 petition by an electrical corporation and shall be disposed of in accordance with the  
172 requirements of this section and the rules of the commission, except as follows:

173 a. The commission shall establish a procedural schedule that permits a commission  
174 decision no later than two hundred fifteen days after the date the petition is filed;

175 b. No later than two hundred fifteen days after the date the petition is filed, the  
176 commission shall issue a financing order approving the petition, an order approving the  
177 petition subject to conditions, or an order rejecting the petition; provided, however, that the  
178 electrical corporation shall provide notice of intent to file a petition for a financing order to  
179 the commission no less than sixty days in advance of such filing;

180 c. Judicial review of a financing order may be had only in accordance with sections  
181 386.500 and 386.510.

182 (b) In performing its responsibilities under this section in approving, approving  
183 subject to conditions, or rejecting a petition for a financing order, the commission may retain  
184 counsel, one or more financial advisors, or other consultants as it deems appropriate. Such  
185 outside counsel, advisor or advisors, or consultants shall owe a duty of loyalty solely to the  
186 commission and shall have no interest in the proposed securitized utility tariff bonds. The  
187 costs associated with any such engagements shall be paid by the petitioning corporation and  
188 shall be included as financed costs in the securitized utility tariff charge and shall not be an  
189 obligation of the state and shall be assigned solely to the subject transaction. **The**  
190 **commission may directly contract counsel, financial advisors, or other consultants as**  
191 **necessary for effectuating the purposes of this section.**

192 (c) A financing order issued by the commission, after a hearing, to an electrical  
193 corporation shall include all of the following elements:

194 a. The amount of securitized utility tariff costs to be financed using securitized utility  
195 tariff bonds and a finding that recovery of such costs is just and reasonable and in the public  
196 interest. The commission shall describe and estimate the amount of financing costs that may  
197 be recovered through securitized utility tariff charges and specify the period over which  
198 securitized utility tariff costs and financing costs may be recovered;

199 b. A finding that the proposed issuance of securitized utility tariff bonds and the  
200 imposition and collection of a securitized utility tariff charge are just and reasonable and in  
201 the public interest and are expected to provide quantifiable net present value benefits to  
202 customers as compared to recovery of the components of securitized utility tariff costs that  
203 would have been incurred absent the issuance of securitized utility tariff bonds.

204 Notwithstanding any provisions of this section to the contrary, in considering whether to find  
205 the proposed issuance of securitized utility tariff bonds and the imposition and collection of a  
206 securitized utility tariff charge are just and reasonable and in the public interest, the  
207 commission may consider previous instances where it has issued financing orders to the  
208 petitioning electrical corporation and such electrical corporation has previously issued  
209 securitized utility tariff bonds;

210 c. A finding that the proposed structuring and pricing of the securitized utility tariff  
211 bonds are reasonably expected to result in the lowest securitized utility tariff charges  
212 consistent with market conditions at the time the securitized utility tariff bonds are priced and  
213 the terms of the financing order;

214 d. A requirement that, for so long as the securitized utility tariff bonds are outstanding  
215 and until all financing costs have been paid in full, the imposition and collection of  
216 securitized utility tariff charges authorized under a financing order shall be nonbypassable  
217 and paid by all existing and future retail customers receiving electrical service from the  
218 electrical corporation or its successors or assignees under commission-approved rate  
219 schedules except for customers receiving electrical service under special contracts on August  
220 28, 2021, even if a retail customer elects to purchase electricity from an alternative electric  
221 supplier following a fundamental change in regulation of public utilities in this state;

222 e. A formula-based true-up mechanism for making, at least annually, expeditious  
223 periodic adjustments in the securitized utility tariff charges that customers are required to pay  
224 pursuant to the financing order and for making any adjustments that are necessary to correct  
225 for any overcollection or undercollection of the charges or to otherwise ensure the timely  
226 payment of securitized utility tariff bonds and financing costs and other required amounts and  
227 charges payable under the securitized utility tariff bonds;

228 f. The securitized utility tariff property that is, or shall be, created in favor of an  
229 electrical corporation or its successors or assignees and that shall be used to pay or secure  
230 securitized utility tariff bonds and approved financing costs;

231 g. The degree of flexibility to be afforded to the electrical corporation in establishing  
232 the terms and conditions of the securitized utility tariff bonds, including, but not limited to,  
233 repayment schedules, expected interest rates, and other financing costs;

234 h. How securitized utility tariff charges will be allocated among retail customer  
235 classes. The initial allocation shall remain in effect until the electrical corporation completes  
236 a general rate proceeding, and once the commission's order from that general rate proceeding  
237 becomes final, all subsequent applications of an adjustment mechanism regarding securitized  
238 utility tariff charges shall incorporate changes in the allocation of costs to customers as  
239 detailed in the commission's order from the electrical corporation's most recent general rate  
240 proceeding;

- 241 i. A requirement that, after the final terms of an issuance of securitized utility tariff  
242 bonds have been established and before the issuance of securitized utility tariff bonds, the  
243 electrical corporation determines the resulting initial securitized utility tariff charge in  
244 accordance with the financing order, and that such initial securitized utility tariff charge be  
245 final and effective upon the issuance of such securitized utility tariff bonds with such charge  
246 to be reflected on a compliance tariff sheet bearing such charge;
- 247 j. A method of tracing funds collected as securitized utility tariff charges, or other  
248 proceeds of securitized utility tariff property, determining that such method shall be deemed  
249 the method of tracing such funds and determining the identifiable cash proceeds of any  
250 securitized utility tariff property subject to a financing order under applicable law;
- 251 k. A statement specifying a future ratemaking process to reconcile any differences  
252 between the actual securitized utility tariff costs financed by securitized utility tariff bonds  
253 and the final securitized utility tariff costs incurred by the electrical corporation or assignee  
254 provided that any such reconciliation shall not affect the amount of securitized utility tariff  
255 bonds or the associated securitized utility tariff charges paid by customers;
- 256 l. A procedure that shall allow the electrical corporation to earn a return, at the cost of  
257 capital authorized from time to time by the commission in the electrical corporation's rate  
258 proceedings, on any moneys advanced by the electrical corporation to fund reserves, if any, or  
259 capital accounts established under the terms of any indenture, ancillary agreement, or other  
260 financing documents pertaining to the securitized utility tariff bonds;
- 261 m. In a financing order granting authorization to securitize energy transition costs or  
262 in a financing order granting authorization to securitize qualified extraordinary costs that  
263 include retired or abandoned facility costs, a procedure for the treatment of accumulated  
264 deferred income taxes and excess deferred income taxes in connection with the retired or  
265 abandoned or to be retired or abandoned electric generating facility, or in connection with  
266 retired or abandoned facilities included in qualified extraordinary costs. The accumulated  
267 deferred income taxes, including excess deferred income taxes, shall be excluded from rate  
268 base in future general rate cases and the net tax benefits relating to amounts that will be  
269 recovered through the issuance of securitized utility tariff bonds shall be credited to retail  
270 customers by reducing the amount of such securitized utility tariff bonds that would otherwise  
271 be issued. The customer credit shall include the net present value of the tax benefits,  
272 calculated using a discount rate equal to the expected interest rate of the securitized utility  
273 tariff bonds, for the estimated accumulated and excess deferred income taxes at the time of  
274 securitization including timing differences created by the issuance of securitized utility tariff  
275 bonds amortized over the period of the bonds multiplied by the expected interest rate on such  
276 securitized utility tariff bonds;

277           n. An outside date, which shall not be earlier than one year after the date the financing  
278 order is no longer subject to appeal, when the authority to issue securitized utility tariff bonds  
279 granted in such financing order shall expire; and

280           o. Include any other conditions that the commission considers appropriate and that are  
281 not inconsistent with this section.

282           (d) A financing order issued to an electrical corporation may provide that creation of  
283 the electrical corporation's securitized utility tariff property is conditioned upon, and  
284 simultaneous with, the sale or other transfer of the securitized utility tariff property to an  
285 assignee and the pledge of the securitized utility tariff property to secure securitized utility  
286 tariff bonds.

287           (e) If the commission issues a financing order, the electrical corporation shall file  
288 with the commission at least annually a petition or a letter applying the formula-based true-up  
289 mechanism and, based on estimates of consumption for each rate class and other  
290 mathematical factors, requesting administrative approval to make the applicable  
291 adjustments. The review of the filing shall be limited to determining whether there are  
292 any mathematical or clerical errors in the application of the formula-based true-up mechanism  
293 relating to the appropriate amount of any overcollection or undercollection of securitized  
294 utility tariff charges and the amount of an adjustment. The adjustments shall ensure the  
295 recovery of revenues sufficient to provide for the payment of principal, interest, acquisition,  
296 defeasance, financing costs, or redemption premium and other fees, costs, and charges in  
297 respect of securitized utility tariff bonds approved under the financing order. Within thirty  
298 days after receiving an electrical corporation's request pursuant to this paragraph, the  
299 commission shall either approve the request or inform the electrical corporation of any  
300 mathematical or clerical errors in its calculation. If the commission informs the electrical  
301 corporation of mathematical or clerical errors in its calculation, the electrical corporation shall  
302 correct its error and refile its request. The time frames previously described in this paragraph  
303 shall apply to a refiled request.

304           (f) At the time of any transfer of securitized utility tariff property to an assignee or the  
305 issuance of securitized utility tariff bonds authorized thereby, whichever is earlier, a financing  
306 order is irrevocable and, except for changes made pursuant to the formula-based true-up  
307 mechanism authorized in this section, the commission may not amend, modify, or terminate  
308 the financing order by any subsequent action or reduce, impair, postpone, terminate, or  
309 otherwise adjust securitized utility tariff charges approved in the financing order. After the  
310 issuance of a financing order, the electrical corporation retains sole discretion regarding  
311 whether to assign, sell, or otherwise transfer securitized utility tariff property or to cause  
312 securitized utility tariff bonds to be issued, including the right to defer or postpone such  
313 assignment, sale, transfer, or issuance.

314 (g) The commission, in a financing order and subject to the issuance advice letter  
315 process under paragraph (h) of this subdivision, shall specify the degree of flexibility to be  
316 afforded the electrical corporation in establishing the terms and conditions for the securitized  
317 utility tariff bonds to accommodate changes in market conditions, including repayment  
318 schedules, interest rates, financing costs, collateral requirements, required debt service and  
319 other reserves and the ability of the electrical corporation, at its option, to effect a series of  
320 issuances of securitized utility tariff bonds and correlated assignments, sales, pledges, or other  
321 transfers of securitized utility tariff property. Any changes made under this paragraph to  
322 terms and conditions for the securitized utility tariff bonds shall be in conformance with the  
323 financing order.

324 (h) As the actual structure and pricing of the securitized utility tariff bonds will be  
325 unknown at the time the financing order is issued, prior to the issuance of each series of  
326 bonds, an issuance advice letter shall be provided to the commission by the electrical  
327 corporation following the determination of the final terms of such series of bonds no later  
328 than one day after the pricing of the securitized utility tariff bonds. The commission shall  
329 have the authority to designate a representative or representatives from commission staff, who  
330 may be advised by a financial advisor or advisors contracted with the commission, to provide  
331 input to the electrical corporation and collaborate with the electrical corporation in all facets  
332 of the process undertaken by the electrical corporation to place the securitized utility tariff  
333 bonds to market so the commission's representative or representatives can provide the  
334 commission with an opinion on the reasonableness of the pricing, terms, and conditions of the  
335 securitized utility tariff bonds on an expedited basis. Neither the designated representative or  
336 representatives from the commission staff nor one or more financial advisors advising  
337 commission staff shall have authority to direct how the electrical corporation places the bonds  
338 to market although they shall be permitted to attend all meetings convened by the electrical  
339 corporation to address placement of the bonds to market. The form of such issuance advice  
340 letter shall be included in the financing order and shall indicate the final structure of the  
341 securitized utility tariff bonds and provide the best available estimate of total ongoing  
342 financing costs. The issuance advice letter shall report the initial securitized utility tariff  
343 charges and other information specific to the securitized utility tariff bonds to be issued, as the  
344 commission may require. Unless an earlier date is specified in the financing order, the  
345 electrical corporation may proceed with the issuance of the securitized utility tariff bonds  
346 unless, prior to noon on the fourth business day after the commission receives the issuance  
347 advice letter, the commission issues a disapproval letter directing that the bonds as proposed  
348 shall not be issued and the basis for that disapproval. The financing order may provide such  
349 additional provisions relating to the issuance advice letter process as the commission  
350 considers appropriate and as are not inconsistent with this section.



351 (4) (a) In performing the responsibilities of this section in connection with the  
352 issuance of a financing order, approving the petition, an order approving the petition subject  
353 to conditions, or an order rejecting the petition, the commission shall undertake due diligence  
354 as it deems appropriate prior to the issuance of the order regarding the petition pursuant to  
355 which the commission may request additional information from the electrical corporation and  
356 may engage one or more financial advisors, one or more consultants, and counsel as the  
357 commission deems necessary. Any financial advisor or advisors, counsel, and consultants  
358 engaged by the commission shall have a fiduciary duty with respect to the proposed issuance  
359 of securitized utility bonds solely to the commission. All expenses associated with such  
360 services shall be included as part of the financing costs of the securitized utility tariff bonds  
361 and shall be included in the securitized utility tariff charge.

362 (b) If an electrical corporation's petition for a financing order is denied or withdrawn,  
363 or for any reason securitized utility tariff bonds are not issued, any costs of retaining one or  
364 more financial advisors, one or more consultants, and counsel on behalf of the commission  
365 shall be paid by the petitioning electrical corporation and shall be eligible for full recovery,  
366 including carrying costs, if approved by the commission in the electrical corporation's future  
367 rates.

368 (5) At the request of an electrical corporation, the commission may commence a  
369 proceeding and issue a subsequent financing order that provides for refinancing, retiring, or  
370 refunding securitized utility tariff bonds issued pursuant to the original financing order if the  
371 commission finds that the subsequent financing order satisfies all of the criteria specified in  
372 this section for a financing order. Effective upon retirement of the refunded securitized utility  
373 tariff bonds and the issuance of new securitized utility tariff bonds, the commission shall  
374 adjust the related securitized utility tariff charges accordingly.

375 (6) (a) A financing order remains in effect and securitized utility tariff property under  
376 the financing order continues to exist until securitized utility tariff bonds issued pursuant to  
377 the financing order have been paid in full or defeased and, in each case, all commission-  
378 approved financing costs of such securitized utility tariff bonds have been recovered in full.

379 (b) A financing order issued to an electrical corporation remains in effect and  
380 unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings,  
381 merger, or sale of the electrical corporation or its successors or assignees.

382 3. (1) The commission may not, in exercising its powers and carrying out its duties  
383 regarding any matter within its authority, consider the securitized utility tariff bonds issued  
384 pursuant to a financing order to be the debt of the electrical corporation other than for federal  
385 and state income tax purposes, consider the securitized utility tariff charges paid under the  
386 financing order to be the revenue of the electrical corporation for any purpose, consider the  
387 securitized utility tariff costs or financing costs specified in the financing order to be the costs

388 of the electrical corporation, nor may the commission determine any action taken by an  
389 electrical corporation which is consistent with the financing order to be unjust or  
390 unreasonable, and section 386.300 shall not apply to the issuance of securitized utility  
391 tariff bonds.

392 (2) Securitized utility tariff charges shall not be utilized or accounted for in  
393 determining the electrical corporation's average overall rate, as defined in section 393.1655  
394 and as used to determine the maximum retail rate impact limitations provided for by  
395 subsections 3 and 4 of section 393.1655.

396 (3) No electrical corporation is required to file a petition for a financing order under  
397 this section or otherwise utilize this section. An electrical corporation's decision not to file a  
398 petition for a financing order under this section shall not be admissible in any commission  
399 proceeding nor shall it be otherwise utilized or relied on by the commission in any proceeding  
400 respecting the electrical corporation's rates or its accounting, including, without limitation,  
401 any general rate proceeding, fuel adjustment clause docket, or proceedings relating to  
402 accounting authority, whether initiated by the electrical corporation or otherwise. The  
403 commission may not order or otherwise directly or indirectly require an electrical corporation  
404 to use securitized utility tariff bonds to recover securitized utility tariff costs or to finance any  
405 project, addition, plant, facility, extension, capital improvement, equipment, or any other  
406 expenditure.

407 (4) The commission may not refuse to allow an electrical corporation to recover  
408 securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition  
409 authorization or approval of the issuance and sale by an electrical corporation of securities or  
410 the assumption by the electrical corporation of liabilities or obligations, because of the  
411 potential availability of securitized utility tariff bond financing.

412 (5) After the issuance of a financing order with or without conditions, the electrical  
413 corporation retains sole discretion regarding whether to cause the securitized utility tariff  
414 bonds to be issued, including the right to defer or postpone such sale, assignment, transfer, or  
415 issuance. Nothing shall prevent the electrical corporation from abandoning the issuance of  
416 securitized utility tariff bonds under the financing order by filing with the commission a  
417 statement of abandonment and the reasons therefor; provided, that the electrical corporation's  
418 abandonment decision shall not be deemed imprudent because of the potential availability of  
419 securitized utility tariff bond financing; and provided further, that an electrical corporation's  
420 decision to abandon issuance of such bonds may be raised by any party, including the  
421 commission, as a reason the commission should not authorize, or should modify, the rate-  
422 making treatment proposed by the electrical corporation of the costs associated with the  
423 electric generating facility that was the subject of a petition under this section that would have  
424 been securitized as energy transition costs had such abandonment decision not been made, but

425 only if the electrical corporation requests nonstandard plant retirement treatment of such costs  
426 for rate-making purposes.

427 (6) The commission may not, directly or indirectly, utilize or consider the debt  
428 reflected by the securitized utility tariff bonds in establishing the electrical corporation's  
429 capital structure used to determine any regulatory matter, including but not limited to the  
430 electrical corporation's revenue requirement used to set its rates.

431 (7) The commission may not, directly or indirectly, consider the existence of  
432 securitized utility tariff bonds or the potential use of securitized utility tariff bond financing  
433 proceeds in determining the electrical corporation's authorized rate of return used to  
434 determine the electrical corporation's revenue requirement used to set its rates.

435 4. The electric bills of an electrical corporation that has obtained a financing order  
436 and caused securitized utility tariff bonds to be issued shall comply with the provisions of this  
437 subsection; however, the failure of an electrical corporation to comply with this subsection  
438 does not invalidate, impair, or affect any financing order, securitized utility tariff property,  
439 securitized utility tariff charge, or securitized utility tariff bonds. The electrical corporation  
440 shall do the following:

441 (1) Explicitly reflect that a portion of the charges on such bill represents securitized  
442 utility tariff charges approved in a financing order issued to the electrical corporation and, if  
443 the securitized utility tariff property has been transferred to an assignee, shall include a  
444 statement to the effect that the assignee is the owner of the rights to securitized utility tariff  
445 charges and that the electrical corporation or other entity, if applicable, is acting as a  
446 collection agent or servicer for the assignee. The tariff applicable to customers shall indicate  
447 the securitized utility tariff charge and the ownership of the charge;

448 (2) Include the securitized utility tariff charge on each customer's bill as a separate  
449 line item and include both the rate and the amount of the charge on each bill.

450 5. (1) (a) All securitized utility tariff property that is specified in a financing order  
451 constitutes an existing, present intangible property right or interest therein, notwithstanding  
452 that the imposition and collection of securitized utility tariff charges depends on the electrical  
453 corporation, to which the financing order is issued, performing its servicing functions relating  
454 to the collection of securitized utility tariff charges and on future electricity consumption.  
455 The property exists:

456 a. Regardless of whether or not the revenues or proceeds arising from the property  
457 have been billed, have accrued, or have been collected; and

458 b. Notwithstanding the fact that the value or amount of the property is dependent on  
459 the future provision of service to customers by the electrical corporation or its successors or  
460 assignees and the future consumption of electricity by customers.

461 (b) Securitized utility tariff property specified in a financing order exists until  
462 securitized utility tariff bonds issued pursuant to the financing order are paid in full and all  
463 financing costs and other costs of such securitized utility tariff bonds have been recovered in  
464 full.

465 (c) All or any portion of securitized utility tariff property specified in a financing  
466 order issued to an electrical corporation may be transferred, sold, conveyed, or assigned to a  
467 successor or assignee that is wholly owned, directly or indirectly, by the electrical corporation  
468 and created for the limited purpose of acquiring, owning, or administering securitized utility  
469 tariff property or issuing securitized utility tariff bonds under the financing order. All or any  
470 portion of securitized utility tariff property may be pledged to secure securitized utility tariff  
471 bonds issued pursuant to the financing order, amounts payable to financing parties and to  
472 counterparties under any ancillary agreements, and other financing costs. Any transfer, sale,  
473 conveyance, assignment, grant of a security interest in or pledge of securitized utility tariff  
474 property by an electrical corporation, or an affiliate of the electrical corporation, to an  
475 assignee, to the extent previously authorized in a financing order, does not require the prior  
476 consent and approval of the commission.

477 (d) If an electrical corporation defaults on any required remittance of securitized  
478 utility tariff charges arising from securitized utility tariff property specified in a financing  
479 order, a court, upon application by an interested party, and without limiting any other  
480 remedies available to the applying party, shall order the sequestration and payment of the  
481 revenues arising from the securitized utility tariff property to the financing parties or their  
482 assignees. Any such financing order remains in full force and effect notwithstanding any  
483 reorganization, bankruptcy, or other insolvency proceedings with respect to the electrical  
484 corporation or its successors or assignees.

485 (e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in securitized  
486 utility tariff property specified in a financing order issued to an electrical corporation, and in  
487 the revenue and collections arising from that property, is not subject to setoff, counterclaim,  
488 surcharge, or defense by the electrical corporation or any other person or in connection with  
489 the reorganization, bankruptcy, or other insolvency of the electrical corporation or any other  
490 entity.

491 (f) Any successor to an electrical corporation, whether pursuant to any reorganization,  
492 bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition,  
493 sale, or other business combination, or transfer by operation of law, as a result of electrical  
494 corporation restructuring or otherwise, shall perform and satisfy all obligations of, and have  
495 the same rights under a financing order as, the electrical corporation under the financing order  
496 in the same manner and to the same extent as the electrical corporation, including collecting  
497 and paying to the person entitled to receive the revenues, collections, payments, or proceeds

498 of the securitized utility tariff property. Nothing in this section is intended to limit or impair  
499 any authority of the commission concerning the transfer or succession of interests of public  
500 utilities.

501 (g) Securitized utility tariff bonds shall be nonrecourse to the credit or any assets of  
502 the electrical corporation other than the securitized utility tariff property as specified in the  
503 financing order and any rights under any ancillary agreement.

504 (2) (a) The creation, perfection, priority, and enforcement of any security interest in  
505 securitized utility tariff property to secure the repayment of the principal and interest and  
506 other amounts payable in respect of securitized utility tariff bonds, amounts payable under  
507 any ancillary agreement and other financing costs are governed by this section and not by the  
508 provisions of the code, except as otherwise provided in this section.

509 (b) A security interest in securitized utility tariff property is created, valid, and  
510 binding at the later of the time:

511 a. The financing order is issued;

512 b. A security agreement is executed and delivered by the debtor granting such  
513 security interest;

514 c. The debtor has rights in such securitized utility tariff property or the power to  
515 transfer rights in such securitized utility tariff property; or

516 d. Value is received for the securitized utility tariff property.

517

518 The description of securitized utility tariff property in a security agreement is sufficient if the  
519 description refers to this section and the financing order creating the securitized utility tariff  
520 property. A security interest shall attach as provided in this paragraph without any physical  
521 delivery of collateral or other act.

522 (c) Upon the filing of a financing statement with the office of the secretary of state as  
523 provided in this section, a security interest in securitized utility tariff property shall be  
524 perfected against all parties having claims of any kind in tort, contract, or otherwise against  
525 the person granting the security interest, and regardless of whether the parties have notice of  
526 the security interest. Without limiting the foregoing, upon such filing a security interest in  
527 securitized utility tariff property shall be perfected against all claims of lien creditors, and  
528 shall have priority over all competing security interests and other claims other than any  
529 security interest previously perfected in accordance with this section.

530 (d) The priority of a security interest in securitized utility tariff property is not  
531 affected by the commingling of securitized utility tariff charges with other amounts. Any  
532 pledgee or secured party shall have a perfected security interest in the amount of all  
533 securitized utility tariff charges that are deposited in any cash or deposit account of the  
534 qualifying electrical corporation in which securitized utility tariff charges have been

535 commingled with other funds and any other security interest that may apply to those funds  
536 shall be terminated when they are transferred to a segregated account for the assignee or a  
537 financing party.

538 (e) No application of the formula-based true-up mechanism as provided in this  
539 section will affect the validity, perfection, or priority of a security interest in or transfer of  
540 securitized utility tariff property.

541 (f) If a default occurs under the securitized utility tariff bonds that are secured by a  
542 security interest in securitized utility tariff property, the financing parties or their  
543 representatives may exercise the rights and remedies available to a secured party under the  
544 code, including the rights and remedies available under part 6 of article 9 of the code. The  
545 commission may also order amounts arising from securitized utility tariff charges be  
546 transferred to a separate account for the financing parties' benefit, to which their lien and  
547 security interest shall apply. On application by or on behalf of the financing parties, the  
548 circuit court for the county or city in which the electrical corporation's headquarters is located  
549 shall order the sequestration and payment to them of revenues arising from the securitized  
550 utility tariff charges.

551 (3) (a) Any sale, assignment, or other transfer of securitized utility tariff property  
552 shall be an absolute transfer and true sale of, and not a pledge of or secured transaction  
553 relating to, the seller's right, title, and interest in, to, and under the securitized utility tariff  
554 property if the documents governing the transaction expressly state that the transaction is a  
555 sale or other absolute transfer other than for federal and state income tax purposes. For all  
556 purposes other than federal and state income tax purposes, the parties' characterization of a  
557 transaction as a sale of an interest in securitized utility tariff property shall be conclusive that  
558 the transaction is a true sale and that ownership has passed to the party characterized as the  
559 purchaser, regardless of whether the purchaser has possession of any documents evidencing  
560 or pertaining to the interest. A sale or similar outright transfer of an interest in securitized  
561 utility tariff property may occur only when all of the following have occurred:

562 a. The financing order creating the securitized utility tariff property has become  
563 effective;

564 b. The documents evidencing the transfer of securitized utility tariff property have  
565 been executed by the assignor and delivered to the assignee; and

566 c. Value is received for the securitized utility tariff property.

567

568 After such a transaction, the securitized utility tariff property is not subject to any claims of  
569 the transferor or the transferor's creditors, other than creditors holding a prior security interest  
570 in the securitized utility tariff property perfected in accordance with this section.

571 (b) The characterization of the sale, assignment, or other transfer as an absolute  
572 transfer and true sale and the corresponding characterization of the property interest of the  
573 purchaser shall not be affected or impaired by the occurrence of any of the following factors:

- 574 a. Commingling of securitized utility tariff charges with other amounts;
- 575 b. The retention by the seller of (i) a partial or residual interest, including an equity  
576 interest, in the securitized utility tariff property, whether direct or indirect, or whether  
577 subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise  
578 fees, or license fees imposed on the collection of securitized utility tariff charges;
- 579 c. Any recourse that the purchaser may have against the seller;
- 580 d. Any indemnification rights, obligations, or repurchase rights made or provided by  
581 the seller;
- 582 e. The obligation of the seller to collect securitized utility tariff charges on behalf of  
583 an assignee;
- 584 f. The transferor acting as the servicer of the securitized utility tariff charges or the  
585 existence of any contract that authorizes or requires the electrical corporation, to the extent  
586 that any interest in securitized utility tariff property is sold or assigned, to contract with the  
587 assignee or any financing party that it will continue to operate its system to provide service to  
588 its customers, will collect amounts in respect of the securitized utility tariff charges for the  
589 benefit and account of such assignee or financing party, and will account for and remit such  
590 amounts to or for the account of such assignee or financing party;
- 591 g. The treatment of the sale, conveyance, assignment, or other transfer for tax,  
592 financial reporting, or other purposes;
- 593 h. The granting or providing to bondholders a preferred right to the securitized utility  
594 tariff property or credit enhancement by the electrical corporation or its affiliates with respect  
595 to such securitized utility tariff bonds;
- 596 i. Any application of the formula-based true-up mechanism as provided in this  
597 section.

598 (c) Any right that an electrical corporation has in the securitized utility tariff property  
599 before its pledge, sale, or transfer or any other right created under this section or created in the  
600 financing order and assignable under this section or assignable pursuant to a financing order  
601 is property in the form of a contract right or a chose in action. Transfer of an interest in  
602 securitized utility tariff property to an assignee is enforceable only upon the later of:

- 603 a. The issuance of a financing order;
- 604 b. The assignor having rights in such securitized utility tariff property or the power to  
605 transfer rights in such securitized utility tariff property to an assignee;
- 606 c. The execution and delivery by the assignor of transfer documents in connection  
607 with the issuance of securitized utility tariff bonds; and

608 d. The receipt of value for the securitized utility tariff property.

609

610 An enforceable transfer of an interest in securitized utility tariff property to an assignee is  
611 perfected against all third parties, including subsequent judicial or other lien creditors, when a  
612 notice of that transfer has been given by the filing of a financing statement in accordance with  
613 subsection 7 of this section. The transfer is perfected against third parties as of the date of  
614 filing.

615 (d) The priority of a transfer perfected under this section is not impaired by any later  
616 modification of the financing order or securitized utility tariff property or by the commingling  
617 of funds arising from securitized utility tariff property with other funds. Any other security  
618 interest that may apply to those funds, other than a security interest perfected under this  
619 section, is terminated when they are transferred to a segregated account for the assignee or a  
620 financing party. If securitized utility tariff property has been transferred to an assignee or  
621 financing party, any proceeds of that property shall be held in trust for the assignee or  
622 financing party.

623 (e) The priority of the conflicting interests of assignees in the same interest or rights  
624 in any securitized utility tariff property is determined as follows:

625 a. Conflicting perfected interests or rights of assignees rank according to priority in  
626 time of perfection. Priority dates from the time a filing covering the transfer is made in  
627 accordance with subsection 7 of this section;

628 b. A perfected interest or right of an assignee has priority over a conflicting  
629 unperfected interest or right of an assignee;

630 c. A perfected interest or right of an assignee has priority over a person who becomes  
631 a lien creditor after the perfection of such assignee's interest or right.

632 6. The description of securitized utility tariff property being transferred to an assignee  
633 in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to  
634 a pledgee in any security agreement, pledge agreement, or other security document, or  
635 indicated in any financing statement is only sufficient if such description or indication refers  
636 to the financing order that created the securitized utility tariff property and states that the  
637 agreement or financing statement covers all or part of the property described in the financing  
638 order. This section applies to all purported transfers of, and all purported grants or liens or  
639 security interests in, securitized utility tariff property, regardless of whether the related sale  
640 agreement, purchase agreement, other transfer agreement, security agreement, pledge  
641 agreement, or other security document was entered into, or any financing statement was filed.

642 7. The secretary of state shall maintain any financing statement filed to perfect a sale  
643 or other transfer of securitized utility tariff property and any security interest in securitized  
644 utility tariff property under this section in the same manner that the secretary of state



645 maintains financing statements filed under the code to perfect a security interest in collateral  
646 owned by a transmitting utility. Except as otherwise provided in this section, all financing  
647 statements filed pursuant to this section shall be governed by the provisions regarding  
648 financing statements and the filing thereof under the code, including part 5 of article 9 of the  
649 code. A security interest in securitized utility tariff property may be perfected only by the  
650 filing of a financing statement in accordance with this section, and no other method of  
651 perfection shall be effective. Notwithstanding any provision of the code to the contrary, a  
652 financing statement filed pursuant to this section is effective until a termination statement is  
653 filed under the code, and no continuation statement need be filed to maintain its effectiveness.  
654 A financing statement filed pursuant to this section may indicate that the debtor is a  
655 transmitting utility, and without regard to whether the debtor is an electrical corporation, an  
656 assignee or otherwise qualifies as a transmitting utility under the code, but the failure to make  
657 such indication shall not impair the duration and effectiveness of the financing statement.

658         8. The law governing the validity, enforceability, attachment, perfection, priority, and  
659 exercise of remedies with respect to the transfer of an interest or right or the pledge or  
660 creation of a security interest in any securitized utility tariff property shall be the laws of this  
661 state.

662         9. Neither the state nor its political subdivisions are liable on any securitized utility  
663 tariff bonds, and the bonds are not a debt or a general obligation of the state or any of its  
664 political subdivisions, agencies, or instrumentalities, nor are they special obligations or  
665 indebtedness of the state or any agency or political subdivision. An issue of securitized utility  
666 tariff bonds does not, directly, indirectly, or contingently, obligate the state or any agency,  
667 political subdivision, or instrumentality of the state to levy any tax or make any appropriation  
668 for payment of the securitized utility tariff bonds, other than in their capacity as consumers of  
669 electricity. All securitized utility tariff bonds shall contain on the face thereof a statement to  
670 the following effect: "Neither the full faith and credit nor the taxing power of the state of  
671 Missouri is pledged to the payment of the principal of, or interest on, this bond."

672         10. All of the following entities may legally invest any sinking funds, moneys, or  
673 other funds in securitized utility tariff bonds:

674             (1) Subject to applicable statutory restrictions on state or local investment authority,  
675 the state, units of local government, political subdivisions, public bodies, and public officers,  
676 except for members of the commission, the commission's technical advisory and other staff,  
677 or employees of the office of the public counsel;

678             (2) Banks and bankers, savings and loan associations, credit unions, trust companies,  
679 savings banks and institutions, investment companies, insurance companies, insurance  
680 associations, and other persons carrying on a banking or insurance business;

681             (3) Personal representatives, guardians, trustees, and other fiduciaries;

682 (4) All other persons authorized to invest in bonds or other obligations of a similar  
683 nature.

684 11. (1) The state and its agencies, including the commission, pledge and agree with  
685 bondholders, the owners of the securitized utility tariff property, and other financing parties  
686 that the state and its agencies will not take any action listed in this subdivision. This  
687 subdivision does not preclude limitation or alteration if full compensation is made by law for  
688 the full protection of the securitized utility tariff charges collected pursuant to a financing  
689 order and of the bondholders and any assignee or financing party entering into a contract with  
690 the electrical corporation. The prohibited actions are as follows:

691 (a) Alter the provisions of this section, which authorize the commission to create an  
692 irrevocable contract right or chose in action by the issuance of a financing order, to create  
693 securitized utility tariff property, and make the securitized utility tariff charges imposed by a  
694 financing order irrevocable, binding, or nonbypassable charges for all existing and future  
695 retail customers of the electrical corporation except its existing special contract customers;

696 (b) Take or permit any action that impairs or would impair the value of securitized  
697 utility tariff property or the security for the securitized utility tariff bonds or revises the  
698 securitized utility tariff costs for which recovery is authorized;

699 (c) In any way impair the rights and remedies of the bondholders, assignees, and other  
700 financing parties;

701 (d) Except for changes made pursuant to the formula-based true-up mechanism  
702 authorized under this section, reduce, alter, or impair securitized utility tariff charges that are  
703 to be imposed, billed, charged, collected, and remitted for the benefit of the bondholders, any  
704 assignee, and any other financing parties until any and all principal, interest, premium,  
705 financing costs and other fees, expenses, or charges incurred, and any contracts to be  
706 performed, in connection with the related securitized utility tariff bonds have been paid and  
707 performed in full.

708 (2) Any person or entity that issues securitized utility tariff bonds may include the  
709 language specified in this subsection in the securitized utility tariff bonds and related  
710 documentation.

711 12. An assignee or financing party is not an electrical corporation or person providing  
712 electric service by virtue of engaging in the transactions described in this section.

713 13. If there is a conflict between this section and any other law regarding the  
714 attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment or  
715 transfer of, or security interest in securitized utility tariff property, this section shall govern.

716 14. If any provision of this section is held invalid or is invalidated, superseded,  
717 replaced, repealed, or expires for any reason, that occurrence does not affect the validity of  
718 any action allowed under this section which is taken by an electrical corporation, an assignee,

719 a financing party, a collection agent, or a party to an ancillary agreement; and any such action  
720 remains in full force and effect with respect to all securitized utility tariff bonds issued or  
721 authorized in a financing order issued under this section before the date that such provision is  
722 held invalid or is invalidated, superseded, replaced, or repealed, or expires for any reason.

393.1715. 1. An electrical corporation may petition the commission for a  
2 determination of the ratemaking principles and treatment, as proposed by the electrical  
3 corporation, that will apply to the reflection in base rates of the electrical corporation's capital  
4 and noncapital costs associated with the proposed retirement of one or more of the electrical  
5 corporation's generating facilities. Without limiting the foregoing, such principles and  
6 treatment may also establish the retirement date and useful life parameters used to set  
7 depreciation rates for such facilities. Except as provided for in subsection 4 of this section,  
8 the ratemaking principles and treatment approved by the commission under this section for  
9 such facilities shall apply to the determination of the revenue requirement in each of the  
10 electrical corporation's post-determination general rate proceedings until such time as such  
11 facility is fully depreciated on the electrical corporation's books.

12 2. If the commission fails to issue a determination within two hundred fifteen days  
13 that a petition for determination of ratemaking principles and treatment is filed, the  
14 ratemaking principles and treatment proposed by the petitioning electrical corporation shall  
15 be deemed to have been approved by the commission.

16 3. Subject to the provisions of subsection 4 of this section, ratemaking principles and  
17 treatment approved by the commission, or deemed to have been approved under subsection 2  
18 of this section, shall be binding for ratemaking purposes.

19 4. (1) An electrical corporation with ratemaking principles and treatment approved  
20 by the commission, or deemed to have been approved under subsection 2 of this section, shall  
21 monitor the major factors and circumstances relating to the facility to which such principles  
22 and treatment apply. Such factors and circumstances include, but are not limited to:

23 (a) Terrorist activity or an act of God;

24 (b) A significant change in federal or state tax laws;

25 (c) A significant change in federal utility laws or regulations or a significant change  
26 in generally accepted accounting principles;

27 (d) An unexpected, extended outage or shutdown of a major generating unit, other  
28 than any major generating unit shut down due to an extended outage at the time of the  
29 approval of the ratemaking principles and treatment;

30 (e) A significant change in the cost or reliability of power generation technologies;

31 (f) A significant change in fuel prices and wholesale electric market conditions;

32 (g) A significant change in the cost or effectiveness of emission control technologies;

33 (h) A significant change in the price of emission allowances;

- 34 (i) A significant change in the electrical corporation's load forecast;  
35 (j) A significant change in capital market conditions;  
36 (k) A significant change in the scope or effective dates of environmental regulations;  
37 or  
38 (l) A significant change in federal or state environmental laws.
- 39 (2) If the electrical corporation determines that one or more major factor or  
40 circumstance has changed in a manner that warrants a change in the approved ratemaking  
41 principles and treatment, then it shall file a notice in the docket in which the approved  
42 ratemaking principles and treatment were established within forty-five days of any such  
43 determination. In its notification, the electrical corporation shall:
- 44 (a) Explain and specify the changes it contends are appropriate to the ratemaking  
45 principles and treatment and the reasons for the proposed changes;  
46 (b) Provide a description of the alternatives that it evaluated and the process that it  
47 went through in developing its proposed changes; and  
48 (c) Provide detailed workpapers that support the evaluation and the process whereby  
49 proposed changes were developed.
- 50 (3) If a party has concerns regarding the proposed changes, that party shall file a  
51 notice of its concerns within thirty days of the electrical corporation's filing. If the parties  
52 agree on a resolution of the concerns, the agreement shall be submitted to the commission for  
53 approval. If the parties do not reach agreement on changes to the ratemaking principles and  
54 treatment within ninety days of the date the electrical corporation filed its notice, whether the  
55 previously approved ratemaking and treatment will be changed shall be determined by the  
56 commission. If a party to the docket in which the approved ratemaking principles and  
57 treatment were approved believes that one or more major factor or circumstance has changed  
58 in a manner that warrants a change in the approved ratemaking principles and treatment and if  
59 the electrical corporation does not agree the principles and treatment should be changed, such  
60 party shall file a notice in the docket in which the approved ratemaking principles and  
61 treatment were established within forty-five days of any such determination. In its  
62 notification, such party shall:
- 63 (a) Explain and specify the changes it contends are appropriate to the ratemaking  
64 principles and treatment and the reasons for the proposed changes;  
65 (b) Provide a description of the alternatives that it evaluated and the process that it  
66 went through in developing its proposed changes; and  
67 (c) Provide detailed workpapers that support the evaluation and the process whereby  
68 proposed changes were developed.
- 69 (4) If a party, including the electrical corporation, has concerns regarding the  
70 proposed changes, that party shall file a notice of its concerns within thirty days of the other

71 party's filing. If the parties do not reach agreement on changes to the ratemaking principles  
72 and treatment within ninety days of the date the notice was filed, whether the previously  
73 approved ratemaking and treatment will be changed shall be determined by the commission.

74 5. A determination of ratemaking principles and treatment under this section does not  
75 preclude an electrical corporation from also petitioning the commission under either or both  
76 of sections 393.1700 and 393.1705, provided that any costs to which such ratemaking  
77 principles and treatment would have applied in the electrical corporation's general rate  
78 proceedings which become funded by securitized utility tariff bond proceeds from a  
79 securitized utility tariff bond issued under section 393.1700 shall not thereafter be reflected in  
80 the electrical corporation's base rates.

81 6. If determined by the commission to be just, reasonable, and necessary for the  
82 provision of safe and adequate service, the electrical corporation ~~[may]~~ **shall** be permitted to  
83 retain coal-fired generating assets in rate base and recover **prudently incurred** costs  
84 associated with operating the coal-fired assets ~~[that remain in service to provide greater~~  
85 ~~certainty that generating capacity will be available to provide essential service to customers,~~  
86 ~~including during extreme weather events, and the commission shall not disallow any portion~~  
87 ~~of such cost recovery on the basis that such coal-fired generating assets operate], including at~~  
88 a low capacity factor, or **that** are offline and providing capacity only~~[; during normal~~  
89 ~~operating conditions]~~ **in order to remain in service to customers for reliability during**  
90 **events such as extreme weather.**

91 7. The commission may promulgate rules necessary to implement the provisions of  
92 sections 393.1700 to 393.1715. Any rule or portion of a rule, as that term is defined in section  
93 536.010, that is created under the authority delegated in this section shall become effective  
94 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
95 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
96 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
97 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant  
98 of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be  
99 invalid and void.

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